

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

RESOLUTION NO. 94-063

RECOMMENDATION FOR WATER QUALITY CERTIFICATION
FOR
SUISUN RESOURCE CONSERVATION DISTRICT
SUISUN MARSH, SOLANO COUNTY

WHEREAS, the Suisun Resource Conservation District (District) has applied to the State for Water Quality Certification under Section 401 of the Federal Clean Water Act for dredging and other activities, such as levee maintenance, grading of pond bottoms, installation of culverts, discing, and ditch maintenance, which require a permit under Section 404 of the Federal Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899; and

WHEREAS, these activities will affect waters of the State and of the United States; and

WHEREAS, the Regional Board under Section 401 of the Clean Water Act reviews applications to determine if the proposed activity will meet State water quality objectives for Water Quality Certification for the proposed activity; and

WHEREAS, Water Quality Certification is a certification for an activity that requires a federal license or permit that there is reasonable assurance that the activity which may result in discharge to waters of the United States will not violate water quality objectives (Title 23, California Code of Regulations, Section 3830 et. seq.); and

WHEREAS, the District submitted an application for water quality certification on July 6, 1992, and the Regional Board Executive Officer found it complete on May 3, 1994; and

WHEREAS, the California Environmental Quality Act (CEQA) requires all projects approved by State agencies to be in full compliance with CEQA, and requires a lead agency to prepare an appropriate environmental document (EIR or Negative Declaration) for such projects; and

WHEREAS, Order No. 7 of State Water Resources Control Board Water Right Decision 1485 required the preparation of the Plan of Protection for the Suisun Marsh including a Final Environmental Impact Report;

WHEREAS, the California Department of Water Resources prepared this Plan of Protection and Final Environmental Impact Report for this project in February 1984; and

WHEREAS, the property owners in the Suisun Marsh are mandated to manage their property, including maintaining and repair of levees, by State law AB 1717; and

WHEREAS, the estimated 1.92 acres of brackish marsh that are to be temporarily filled contain areas of hydric soils that are periodically inundated with surface and groundwater at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and is therefore defined as a wetland according to 40 CFR 122.2; and

WHEREAS, the Suisun Marsh provides valuable habitat for resident and migratory birds of a wide variety of species as well as provide wildlife habitat; and

WHEREAS, the Regional Board, in Resolution No. 87-106, dated August 19, 1987, adopted, in accordance with Section 13244 et. seq. of the California Water Code, amendments to the Water Quality Control Plan, San Francisco Bay Basin (Basin Plan) that established a policy for regulating wetland fill. However, this policy has not been approved by the State Office of Administrative Law; and

WHEREAS, Section 13142.5 of the California Water Code requires that the "Highest priority shall be given to improving or eliminating discharges that adversely affect...Wetlands, estuaries, and other biologically sensitive sites."; and

WHEREAS, Senate Concurrent Resolution No. 28 states that, "It is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and the multiple resources which depend on them for the benefit of the people of the State."; and

WHEREAS, the mandated management activities associated with this project will not result in a net loss of wetland beneficial uses and will likely increase wetland values and improve beneficial uses; now

BE IT THEREFORE RESOLVED, that this Regional Board recommends that the Executive Director of the State Water Resources Control Board grant Water Quality Certification pursuant to Section 401 of the Clean Water Act and State regulations in Title 23 California Code of Regulations Section 3830 et. seq., for dredging and other activities by the Suisun Resource Conservation District, with the provisions that:

1. An annual report must be submitted to the Regional Board, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the California Department of Fish and Game no later than March 31 of each year, starting in 1995. The report must contain an accounting of the amount of wetland acreage and values lost during the preceding year, and the location of the lost wetlands.
2. A proposal for the method of wetlands accounting in Provision 1. must be submitted to the Regional Board, the U.S. Army Corps of Engineers, the U.S. Fish and

Wildlife Service and the California Department of Fish and Game by August 31, 1994. During the five-year accounting period, the accounting must include all property in the District.

3. The revised management plans for each individual parcel of land must be submitted for certification to the San Francisco Bay Conservation and Development Commission no later than June 30, 1997.
4. Creosote shall not be used with any piling or other structure placed in contact with waters of the State, in connection with any activity covered by the U.S. Army Corps of Engineers permit.

BE IT FURTHER RESOLVED, that this Regional Board directs the Executive Officer to transmit this resolution to the Executive Director of the State Water Resources Control Board.

I, Steven R. Ritchie, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on May 18, 1994.



Steven R. Ritchie
Executive Officer